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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,564	06/06/2000	J. Michael Pitale	JMP-0002	1651

7590 03/04/2004

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EXAMINER

LIPMAN, JACOB

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/516,564

Applicant(s)

PITALE, J. MICHAEL

Examiner

Jacob Lipman

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on 2/10/2004. These drawings are acceptable.

Specification

2. The substitute specification was received on 2/10/2004. This specification is acceptable.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 recites the limitation "the user" in line 6. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 1 recites, "which will then allow a requested...which will then activate..." It is unclear what is activating the security measures, the request, or the alert signal.
7. Claim 1 is very unclear, and seems to be extremely broad. The examiner points out that a cell phone can call 911(an ATM alert system) interact with established software which allows a requested action (asking the police for assistance), which activates security measures.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer security protection is not a patentable invention. It is unclear whether this is intended to be a system, method, or apparatus. In this office action, it is being considered a system.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Eisenberg, US Patent number 5,354,974.

With regard to claim 1, Eisenberg discloses an ATM machine (column 2 lines 59-61) comprising a computer to receive a identification (column 2 lines 63-68), determine if the identification is from a user who is under duress (column 3 lines 4-9), and activate an alarm if it is an alert identification (column 3 lines 9-13).

With regard to claim 2, Eisenberg discloses the identification is a PIN number (column 2 lines 63-68).

With regard to claim 3, Eisenberg discloses the system can require two forms of identification (column 3 lines 19-24).

3. Claims 1-3, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Zingher et al., US Patent number 5,731,575.

With regard to claim 1, Zingher discloses an ATM machine (column 4 line 65-column 5 line 5) comprising a computer to receive an identification (column 5 lines 6-15), determine if the identification is from a user who is under duress (column 5 lines 16-22), and activate an alarm if it is an alert identification (column 5 lines 22-27).

With regard to claim 2, Zingher discloses the identification is a PIN number (column 5 lines 16-20).

With regard to claim 3, Zingher discloses the system can require two forms of identification (column 13 lines 51-55).

Response to Arguments

4. Applicant's arguments filed 2/10/2004 have been fully considered but they are not persuasive. Applicant's argument, that Eisenberg does not teach a separate system which can be attached to an existing ATM, is not supported in the art. Eisenberg discloses that ATM's with card readers and keypads already exist (column 1 lines 8-20). It is inherent in the disclosure that Eisenberg is teaching an improvement to be added to an existing system. In case this argument is not convincing to applicant, the examiner added further art, Zingher et al., which explicitly mentions that it can be added to existing ATMs (column 10 lines 20-33).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 703-305-0716. The examiner can normally be reached on 7:30 - 5 M-Th, and alternating Fridays.

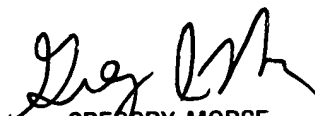
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 703-308-4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL


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